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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,626	10/30/2000	Daniel J. Sullivan	1001.1413102	7050

7590 11/05/2002

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EXAMINER

WINGOOD, PAMELA LYNN

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 11/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No. 09/699,626		Applicant(s) Sullivan	
Examiner Pamela Wingood		Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8.21.02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 15-20, 24, and 27-30 is/are rejected.
- 7) ☒ Claim(s) 13, 14, 21-23, 25, and 26 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |

ART UNIT:3736

SN: 09/699,626

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 11-12, 15-20, 23, 24 and 27 - 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Gambale et al.

Gambale et al. discloses a guidewire for intravascular use (Col. 1, Ins. 5-9) having an elongate solid shaft (10, having cross-hatching to indicate its solid nature at Figs. 1 and 2) with a proximal end (near element 10) and distal end (near element 22) with a taper towards its distal end (12 Col. 2, Ins. 53-57), a radiopaque tip (18, Col. 3, Ins. 19-20) and a plurality of radiopaque markers defined by the individual coils of coil (24) that have longitudinal spaces therebetween, they are longitudinally spaced with respect to each other and spaced with the nonradiopaque coil (30) (Fig. 1 at area 12).

ART UNIT:3736

SN: 09/699,626

Allowable Subject Matter

3. Claims 13, 14, 21, 22, 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Prior art of record did not suggest or disclose an intravascular guidewire having markers with a plurality of longitudinal spaces therebetween that are 1.5cm, or such a device with markers that are 1mm wide..

Response to Arguments

4. Applicant's arguments filed on August 21, 2002 have been fully considered but they are not persuasive.

Regarding the rejection on the merits, the prior rejection using Gambale et al. still applies. Gambale et al. has a coil tip at a distal point and markers (coils) proximal of the distal tip. (See Fig. 2). There is a distal tip at (18) with an area of alternating radiopaque markers. Applicant is encouraged to amend the claim 1 or contact the Examiner for an interview for more specifically clarify the distinction in between the claim and the prior art.

Examiner appreciates the amendment to the Specification of update and correct the continuing data.

ART UNIT:3736

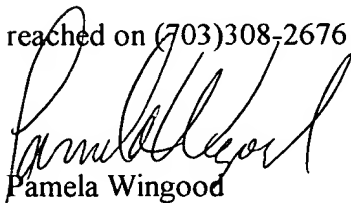
SN: 09/699,626

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any questions regarding this application can be addressed to Pamela Wingood who can be reached on (703)308-2676 on Monday-Thursday and alternating Fridays from 7:30-5:00PM.



Pamela Wingood

Patent Examiner

November 4, 2002



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